

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

United States of America,

Plaintiffs,

Case No. 1:18-cr-00090-DLH

v.

James Wesley Bernard, a/k/a
Gamar Dushawn Kelly, a/k/a
“Ghost”,

Defendant.

**DEFENDANT’S SENTENCING
MEMORANDUM**

[¶ 1] The Defendant, James Wesley Bernard, a/k/a Gamar Dushawn Kelly, a/k/a “Ghost”, (“Mr. Bernard”), plead guilty to the crime of Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance, a class C felony, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 846; and 18 U.S.C. § 2. His Sentencing Hearing is scheduled for December 16, 2019 at 11:00 a.m. This Sentencing Memorandum is filed for the Court’s consideration of issues, outlined below.

PLEA AGREEMENT/GUIDELINE CALCULATION

[¶ 2] The Parties have signed a written plea agreement in accordance with Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure. Specifically, the parties agreed to, in consistent with U.S.S.G. § 2D1.1(c), a base offense level of 22. The United States will recommend a downward adjustment of two levels for acceptance of responsibility, and as well as move for an additional one level downward adjustment for timely notifying the United States of his intention to enter a plea of guilty in accordance with U.S.S.G. § 3E1.1(b), resulting in a net offense level of 19. This PSIR confirms this calculation. See PSIR, ¶ 24. With that, the plea agreement outlines that, at the time of sentencing, the United States will

recommend a sentence not greater than 96 months, with Mr. Bernard being free to make any recommendation, including credit for time served, within that specified “capped” range.

[¶ 3] The PSIR establishes that Mr. Bernard has a Criminal History Category of **III**. See PSIR, ¶ 29. These calculations provide that Mr. Bernard’s sentencing range to be **37-46 months**. See PSIR, ¶ 89. Mr. Bernard was taken into federal custody on August 7, 2018, and has and will remain in custody until the date of his Sentencing Hearing. As a result, through December 16, 2019, Mr. Bernard will have accrued a total of approximately 491 days credit for time served, the equivalent of 16 to 17 months. See PSIR, ¶¶ 1-5.

CONCLUSION

[¶ 4] Mr. Bernard request the Court sentence him in conjunction with the period outlined in his sealed Sentencing Memorandum Supplement.

Dated this 9th day of December, 2019

VOGEL LAW FIRM

/s/ Luke T. Heck

BY: Luke T. Heck

218 NP Avenue

PO Box 1389

Fargo, ND 58107-1389

Telephone: 701.237.6983

Email: lheck@vogellaw.com

ATTORNEYS FOR DEFENDANT